**Pedestrian Safety Advisory Council**

**Meeting 15 Summary**

**August 23, 2017, 10 am – 2:30 pm**

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| In Attendance: | Marc Anderson, Metro; Dongho Chang, City of Seattle; Charlotte Claybrooke, DOH; Aimee D’Avignon, DOH; ; Josh Diekmann, City of Tacoma; Will Hitchcock, DOH; Tina Martin, WSP; Pam Pannkuk, WTSC; Julia Reitan, Feet First; Ida Van Schalkwyk, DOH; Karen Wigen, Region 13 TZM; Scott Waller, WTSC; Heidi Keller, Facilitator |
|  | The Council welcomed Tina Martin as the new representative from the Washington State Patrol. |

**Agenda Item 1. Legal protection for pedestrian safety plans**

The Council heard presentations related to Focus Area 1. Action Item 1.3. *Provide legal protection for city & county pedestrian safety plans.*

Matthew Enders, WSDOT

* In 2010 WSDOT shifted the distribution of federal safety funds to counties away from spot improvements and toward low cost solutions over a wider area of roads. WSDOT provides counties with data to use in prioritizing types of crashes and conditions, look at their roadway network to determine the common things where crashes are happening, and develop a plan to prevent crashes in a systemic way.
* County road crashes are climbing at a lower rate than the rest of the state.
* Expanding to cities next year
* 31 of 39 counties are participating. Matthew has not heard concerns over legal liability in using this approach

Dongho Chang, City of Seattle

* In Seattle, pedestrian and bicycle crashes are 7% of total crashes but 40% of fatalities.
* The “*Bicycle and Pedestrian Safety Analysis*” helps better understand risk factors, and proactively and systemically address risk factors to mitigate potential crashes.
* Seattle’s statistical analysis and prioritization process helps explain to the public why they are investing in various locations and what they are doing to mitigate potential crashes.
* Their report provides solid justification in case of tort claims. Judges and juries accept that you have a gone through a process to develop a priority list of projects that you will fix when funding is available.

Patricia Todd, Assistant Attorney General, and John Milton, WSDOT risk manager, shared their experiences in court.

* A public entity can be found negligent if they had a duty and didn’t fulfill it. However, courts and juries have been sympathetic when jurisdictions compile projects according to an agency policy that lays out a formula for how projects are prioritized for investment. They have recognized that projects can only be undertaken as funding is available, that you can’t do everything on your list if you don’t have the funding.
* Words are important. Public agencies have to be careful about what they say and how they present the information. Avoid opinions, and focus on the factual thing that you are trying to do.
* What constitutes “safe” and “unsafe” will lead to a world of debate.
* Plans that tend to hold up well in court:

1. identify positive actions you will take when funding is available
2. include lists of projects ranked according to specific criteria
3. use factual information and are devoid of opinions
4. are signed off on by higher authorities

* Example: “Based on statistical analysis here is our priority for investment.”

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| Examples of Opinion Words and Adjectives | Examples of Factual Words and Phrases |
| * Safety Plan * Hot Spots * Dangerous Locations * Higher risk | * Pedestrian Walkways Plan (draws from RCW language) * Pedestrian Master Plan * Priority Investment list based on statistical analysis and approved process; will address as funds become available |

**Conclusions**

It is possible that some local jurisdictions are unaware of existing legal protections for the development of pedestrian walkway plans. These protections exist for plans that are developed in a systematic, analytical way using a process that is supported by agency policy.

It is unlikely that the State Legislature would approve additional protections. It would require modifications to state tort law, and the Legislature has not been friendly to extending more protections to plaintiffs.

***Potential Recommendations:***

* Educate local jurisdictions on the legal framework for developing pedestrian walkway plans and prioritizing investments. Identify conferences, annual meetings, and forums with targeted presentations and workshops on the legal framework, increasing skills in managing risk and being successful. Key concepts: emphasize use of facts, deemphasize use of opinion.
* Create a work group to look at data in WSDOT Public Crash Portal Phase 2 and develop schema that makes the job easier for smaller jurisdictions.
* Develop and disseminate a risk reduction framework that allows jurisdictions to identify priority locations where they will invest as funding becomes available.

**Agenda Item 2. 2017 Work plan, Focus Area 7. Include diverse stakeholders**

***Action Item 7.1.*** *Develop an inclusion strategy so that we are hearing from groups about issues unique to tribes, people of color, non-English speaking*

Presenters:

* Scott Waller, WTSC Tribal Traffic Safety Advisory Board
* Dongho Chang, Seattle Department of Transportation Inclusive Outreach and Public Engagement
* Larry Watkinson, WSDOT ADA Coordinator

Scott Waller presented crash data on and near Tribal lands, and described WTSC’s Tribal Traffic Safety Advisory Board. The Tribal Traffic Safety Advisory Board is aware of this Council and has agreed to serve in an advisory capacity.

Dongho Chang discussed Seattle’s program for outreach and public engagement, sharing this definition that guides their work:

*Public engagement = actively engaging people in a two-way conversation; informing, but also asking for their ideas in how we design and deliver our work.*

Larry Watkinson, WSDOT ADA coordinator, discussed his work to create lasting and meaningful partnerships with a variety of groups representing people with disabilities.

**Conclusion:** Scott will follow up on the methods and organizations that were discussed, and report back to the Council about developing a meaningful engagement strategy for diverse stakeholders. This will likely occur in 2018.